

CRIMINAL LAW

CONFESSIONS OF GUILT — NECESSITY OF ADDITIONAL EVIDENCE

The defendant was charged with the offense of petit larceny for the theft of postage stamps. The second assignment of error on appeal was that the *corpus delicti* was not proven at the time the state attempted to introduce the defendant's extra-judicial confession in evidence. The state introduced evidence that the stamps were missing and also evidence of the person who purchased the stamps from the defendant that they were two and three cent stamps. The Court of Appeals for Franklin county ruled that this was sufficient evidence as to the *corpus delicti* to permit the introduction of the alleged confession of the defendant.¹

The general rule, including that in Ohio, as to the admissibility of confessions is that before the confession can be admitted there must be some evidence outside the confession which tends to establish the *corpus delicti*.² The term *corpus delicti* means that the specific crime charged has actually been committed by some one, and it is made up of two elements: First, that a certain result has been produced, as that a man has died; second, that some one is criminally responsible for the result, as for the death.³ It does not include the means and manner by which the crime was consummated.⁴

The courts do not attempt to declare a fixed and fast rule as to the *quantum* of extrinsic evidence which must be introduced before the confession of the accused may be admitted. The case of *State v. Maranda*⁵ is cited in the principal case as authority on this point. The court in that case ruled that there need not be proof beyond a reasonable doubt or even a prima facie case of guilt against the defendant but that there must be some proof tending to establish the fact that a crime was committed. A lower court case ruled that the proof of the discovery of a railroad car broken open and that the goods had been taken therefrom was sufficient proof of the *corpus delicti* to render admissible an extra-judicial confession of one that he had burglarized the car.⁶

The court in the *Maranda* case pointed out that the rule as to the *corpus delicti* was born out of great caution by the courts, in considera-

¹ State v. Schroyer, 66 Ohio App. 30, 31 N.E. (2) 469 (1941).

² Blackburn v. State of Ohio, 23 Ohio St. 146 (1872).

³ State v. Kindle, 71 Montana 58, 63, 227 P. 65, 67 (1924).

⁴ State of Ohio v. Knapp, 70 Ohio St. 380, 71 N.E. 705 (1904).

⁵ 94 Ohio St. 364, 114 N.E. 1038 (1904).

⁶ Marconi v. State, 13 Ohio L. Abs. 196 (1932).

tion of certain cases of homicide wherein it had turned out that by reason of a failure of the prosecutor to prove the death of the person charged as having been murdered, it so happened that such person sometimes survived the person accused as his murderer.⁷ The reasoning in an earlier lower court case was that the rule was based on the danger incident to convictions of persons charged with crime when no crime was in fact committed.⁸

The rule applied in the principal case would not have been effective if the defendant had either plead guilty or made a confession in open court. The court in *State v. Ferranto*⁹ held that a plea of guilty in a capital offense should be accepted cautiously and the trial judge should fully advise the accused of his rights and be satisfied that he acts freely after being so advised. This illustrates the desire on the part of courts to protect the defendant but there is no rule requiring that there be evidence introduced to establish the *corpus delicti* before the plea of guilty or the confession in open court will be permitted. It would seem that the reason usually given for the rule as to admissibility of extrajudicial confessions would also be present in judicial confessions and pleas of guilty.¹⁰ Although some courts in other states have held that the rule of the principal case does not obtain where the confession was that of a misdemeanor,¹¹ there is no indication that the rule will be so modified in Ohio.

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DESCENT AND DISTRIBUTION

RIGHT OF ADOPTED CHILD TO INHERIT THROUGH ITS ADOPTIVE PARENTS

In an action to determine heirship brought by the administrator of the estate of Ella Saxby, deceased, where the rival claimants were a first cousin of the deceased and a designated heir of a brother of the deceased, the Court of Appeals affirmed the Common Pleas Court in holding that a designated heir can inherit from but not through the declarant.¹ In support of this holding the court in a *dictum* draws an analogy to the adoption statute, Ohio G.C. Sec. 10512-19.

⁷ *State v. Maranda*, 940 Ohio St. 364 at 370, 114 N.E. 1038 (1906); cited *supra* note 5.

⁸ *State v. Wehr*, 6 Ohio N.P. 345, 9 Ohio Dec. 459 (1898).

⁹ *State of Ohio v. Ferranto*, 112 Ohio St. 667, 148 N.E. 362 (1925).

¹⁰ However on this point see Ohio Gen. Code, sec. 13448-2, which reads: "... If the offense charged is murder and the accused is convicted by confession in open court, the court shall examine the witnesses, determine the degree of the crime and pronounce sentence accordingly."

¹¹ See 22 CORPUS JURIS SECUNDUM, sec. 839, p. 1472 (1940).

¹ *Southern Ohio Savings Bank & Trust Co. v. Boyer*, 66 Ohio App. 136, 31 N.E. (2d) 161, 32 Ohio L. Abs. 626 (1940).